

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Synagro of Texas-CRD, Inc. for new Permit No. 0004674000; TCEQ Docket No. 2004-2038-SLG.

On February 9, 2005, the Texas Commission on Environmental Quality (Commission) considered during its open meeting the timely requests for hearing or reconsideration submitted by James E. Brune and Lillie A. Brune, Danny Novak, Betty and James H. Hoffman, James W. Hoffman, and Sharon Witte concerning the application by Synagro of Texas-CRD, Inc. (Applicant) for new Permit No. 0004674000. The Commission evaluated the requests under the requirements in the applicable statutes and Commission rules, including 30 TAC Chapter 55, Subchapter F. The Commission considered the following with regard to the requests: all public comment, the Executive Director's Response to Public Comment, and all other timely pleadings in this matter.

After consideration of these matters, the Commission determined that Danny Novak, Betty and James H. Hoffman, James W. Hoffman, and Sharon Witte were affected persons as provided by applicable law, including 30 Texas Administrative Code Section 55.203. Thus, the Commission granted their requests for a contested case hearing. The Commission also determined to deny the request for hearing from James E. Brune and Lillie A. Brune as well as all requests for reconsideration. However, the Commission requested the Administrative Law Judge evaluate and decide any request for party status from James E. Brune and Lillie A. Brune if they appear at the preliminary hearing and request to participate in the evidentiary hearing as parties. Prior to referral to the State Office of Administrative Hearings for a contested case hearing, the Commission referred this matter to the Commission's Alternative Dispute Resolution staff for mediation for a period of four to six weeks.

If mediation does not result in settlement, the Commission directed the Commission's Chief Clerk to forward to the State Office of Administrative Hearings the following disputed and relevant and material issues of fact that were raised during the comment period: 1) Will the proposed permit adversely impact health?; 2) Will the proposed permit adversely impact surface water or groundwater quality?; and 3) Whether the permit will satisfy the applicable requirement to not cause or contribute to the harm of a threatened or endangered species or their critical habitat? The Commission specified the maximum duration of the evidentiary hearing as six months from the first day of the preliminary hearing to the date the proposal for decision is issued by the State Office of Administrative Hearings. The three Commissioners voted unanimously with regard to all matters except that Commissioner Larry Soward voted in opposition to the denial of the hearing request of James E. Brune and Lillie A. Brune.

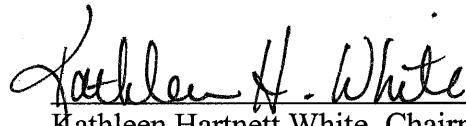
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The requests for hearing submitted by Danny Novak, Betty and James H. Hoffman, James W. Hoffman, and Sharon Witte are GRANTED, but only with regard to the issues specified in Ordering Provision Number 4.
2. The request for hearing submitted by James E. Brune and Lillie A. Brune and all requests for reconsideration are DENIED; however, the Administrative Law Judge may evaluate and determine the party status of James E. Brune and Lillie A. Brune if they appear at the preliminary hearing and request to participate in the contested case hearing as parties.
3. Prior to referral to the State Office of Administrative Hearings, this matter is referred to the Commission's Alternative Dispute Resolution staff for mediation for a period of four to six weeks.
4. If mediation does not result in settlement, the Chief Clerk shall refer to the State Office of Administrative Hearings the following issues for a contested case hearing:

1. Will the proposed permit adversely impact health?;
2. Will the proposed permit adversely impact surface water or groundwater quality?; and
3. Whether the permit will satisfy the applicable requirement to not cause or contribute to the harm of a threatened or endangered species or their critical habitat?
5. The maximum duration of the hearing is six months from the first day of the preliminary hearing to the date the proposal for decision and recommended order is issued by the State Office of Administrative Hearings.

Issue date: **FEB 15 2005**

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
Kathleen Hartnett White, Chairman

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